

AMENDED IN SENATE JULY 2, 2009
AMENDED IN SENATE JUNE 30, 2009
AMENDED IN ASSEMBLY MAY 7, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 586

Introduced by Assembly Member Huber

February 25, 2009

An act to amend Sections 3212, 3212.1, 3212.5, 3212.6, 3212.8, 3212.85, and 3212.9 of the Labor Code, relating to workers' compensation.

LEGISLATIVE COUNSEL'S DIGEST

AB 586, as amended, Huber. Workers' compensation: public employees: medical conditions: presumptions.

Existing workers' compensation law generally requires employers to secure the payment of workers' compensation, including medical treatment, for injuries incurred by their employees that arise out of, or in the course of, employment.

Existing law provides that, in the case of certain state and local law enforcement personnel, and in certain circumstances, firefighting personnel, the term "injury" includes hernia, cancer, leukemia, heart trouble, pneumonia, ~~illness or resulting death due to exposure to a biochemical substance~~, blood-borne infectious disease, methicillin-resistant *Staphylococcus aureus* skin infection, tuberculosis, and meningitis that develops or manifests itself during a period while the member is in the service of the governmental entity, and establishes disputable presumptions in this regard.

This bill would, with respect to law enforcement personnel, specify certain peace officers to whom the *above-described* disputable presumptions apply.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3212 of the Labor Code is amended to
2 read:
3 3212. In the case of peace officers described in Sections 830.1
4 to 830.38, inclusive, of the Penal Code and members of fire
5 departments of cities, counties, cities and counties, districts, or
6 other public or municipal corporations or political subdivisions,
7 whether those persons are volunteer, partly paid, or fully paid, and
8 in the case of active firefighting members of the Department of
9 Forestry and Fire Protection whose duties require firefighting or
10 of any county forestry or firefighting department or unit, whether
11 voluntary, fully paid, or partly paid, and in the case of members
12 of the warden service of the Wildlife Protection Branch of the
13 Department of Fish and Game whose principal duties consist of
14 active law enforcement service, excepting those whose principal
15 duties are clerical or otherwise do not clearly fall within the scope
16 of active law enforcement service such as stenographers, telephone
17 operators, and other officeworkers, the term “injury” as used in
18 this act includes hernia when any part of the hernia develops or
19 manifests itself during a period while the member is in the service
20 in the office, staff, division, department, or unit, and in the case
21 of members of fire departments, except those whose principal
22 duties are clerical, such as stenographers, telephone operators, and
23 other officeworkers, and in the case of county forestry or
24 firefighting departments, except those whose principal duties are
25 clerical, such as stenographers, telephone operators, and other
26 officeworkers, and in the case of active firefighting members of
27 the Department of Forestry and Fire Protection whose duties
28 require firefighting, and in the case of members of the warden
29 service of the Wildlife Protection Branch of the Department of
30 Fish and Game whose principal duties consist of active law
31 enforcement service, excepting those whose principal duties are
32 clerical or otherwise do not clearly fall within the scope of active

law enforcement service such as stenographers, telephone operators, and other office workers, the term “injury” includes pneumonia and heart trouble that develops or manifests itself during a period while the member is in the service of the office, staff, department, or unit. In the case of regular salaried county or city and county peace officers, the term “injury” also includes any hernia that manifests itself or develops during a period while the officer is in the service. The compensation that is awarded for the hernia, heart trouble, or pneumonia shall include full hospital, surgical, medical treatment, disability indemnity, and death benefits, as provided by the workers’ compensation laws of this state.

The hernia, heart trouble, or pneumonia so developing or manifesting itself in those cases shall be presumed to arise out of and in the course of the employment. This presumption is disputable and may be controverted by other evidence, but unless so controverted, the appeals board is bound to find in accordance with it. The presumption shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.

The hernia, heart trouble, or pneumonia so developing or manifesting itself in those cases shall in no case be attributed to any disease existing prior to that development or manifestation.

SEC. 2. Section 3212.1 of the Labor Code is amended to read:

3212.1. (a) This section applies to all of the following:

(1) Active firefighting members, whether volunteers, partly paid, or fully paid, of all of the following fire departments:

(A) A fire department of a city, county, city and county, district, or other public or municipal corporation or political subdivision.

(B) A fire department of the University of California and the California State University.

(C) The Department of Forestry and Fire Protection.

(D) A county forestry or firefighting department or unit.

(2) Active firefighting members of a fire department that serves a United States Department of Defense installation and who are certified by the Department of Defense as meeting its standards for firefighters.

1 (3) Peace officers, as described in Sections 830.1 to 830.38,
2 inclusive, of the Penal Code, who are primarily engaged in active
3 law enforcement activities.

4 (4) (A) Fire and rescue services coordinators who work for the
5 Office of Emergency Services.

6 (B) For purposes of this paragraph, “fire and rescue services
7 coordinator” means a coordinator with any of the following job
8 classifications: coordinator, senior coordinator, or chief
9 coordinator.

10 (b) The term “injury,” as used in this division, includes cancer,
11 including leukemia, that develops or manifests itself during a period
12 in which any member described in subdivision (a) is in the service
13 of the department or unit, if the member demonstrates that he or
14 she was exposed, while in the service of the department or unit,
15 to a known carcinogen as defined by the International Agency for
16 Research on Cancer, or as defined by the director.

17 (c) The compensation that is awarded for cancer shall include
18 full hospital, surgical, medical treatment, disability indemnity, and
19 death benefits, as provided by this division.

20 (d) The cancer so developing or manifesting itself in these cases
21 shall be presumed to arise out of and in the course of the
22 employment. This presumption is disputable and may be
23 controverted by evidence that the primary site of the cancer has
24 been established and that the carcinogen to which the member has
25 demonstrated exposure is not reasonably linked to the disabling
26 cancer. Unless so controverted, the appeals board is bound to find
27 in accordance with the presumption. This presumption shall be
28 extended to a member following termination of service for a period
29 of three calendar months for each full year of the requisite service,
30 but not to exceed 60 months in any circumstance, commencing
31 with the last date actually worked in the specified capacity.

32 (e) The amendments to this section enacted during the 1999
33 portion of the 1999–2000 Regular Session shall be applied to
34 claims for benefits filed or pending on or after January 1, 1997,
35 including, but not limited to, claims for benefits filed on or after
36 that date that have previously been denied, or that are being
37 appealed following denial.

38 SEC. 3. Section 3212.5 of the Labor Code is amended to read:

39 3212.5. In the case of a peace officer, as described in Sections
40 830.1 to 830.38, inclusive, of the Penal Code, when that peace

1 officer is employed upon a regular, full-time salary, the term
2 “injury” as used in this division includes heart trouble and
3 pneumonia that develops or manifests itself during a period while
4 the peace officer is in the service of his or her agency. The
5 compensation that is awarded for the heart trouble or pneumonia
6 shall include full hospital, surgical, medical treatment, disability
7 indemnity, and death benefits as provided by the provisions of this
8 division.

9 The heart trouble or pneumonia so developing or manifesting
10 itself shall be presumed to arise out of and in the course of the
11 employment; provided, however, that the peace officer shall have
12 served five years or more in that capacity before the presumption
13 shall arise as to the compensability of heart trouble so developing
14 or manifesting itself. This presumption is disputable and may be
15 controverted by other evidence, but unless so controverted, the
16 appeals board is bound to find in accordance with it. This
17 presumption shall be extended to a peace officer following
18 termination of service for a period of three calendar months for
19 each full year of the requisite service, but not to exceed 60 months
20 in any circumstance, commencing with the last date actually
21 worked in the specified capacity.

22 The heart trouble or pneumonia so developing or manifesting
23 itself in these cases shall in no case be attributed to any disease
24 existing prior to the development or manifestation.

25 SEC. 4. Section 3212.6 of the Labor Code is amended to read:

26 3212.6. In the case of a peace officers described in Sections
27 830.1 to 830.38, inclusive, of the Penal Code, or a prison or jail
28 guard or correctional officer who is employed by a public agency,
29 when that person is employed upon a regular, full-time salary, or
30 in the case of members of fire departments of any city, county, or
31 district, or other public or municipal corporations or political
32 subdivisions, when those members are employed on a regular fully
33 paid basis, and in the case of active firefighting members of the
34 Department of Forestry and Fire Protection whose duties require
35 firefighting and first-aid response services, or of any county
36 forestry or firefighting department or unit, where those members
37 are employed on a regular fully paid basis, excepting those whose
38 principal duties are clerical or otherwise do not clearly fall within
39 the scope of active law enforcement, firefighting, or emergency
40 first-aid response service such as stenographers, telephone

1 operators, and other offceworkers, the term “injury” includes
2 tuberculosis that develops or manifests itself during a period while
3 that member is in the service of that department or office. The
4 compensation that is awarded for the tuberculosis shall include
5 full hospital, surgical, medical treatment, disability indemnity, and
6 death benefits as provided by the provisions of this division.

7 The tuberculosis so developing or manifesting itself shall be
8 presumed to arise out of and in the course of the employment. This
9 presumption is disputable and may be controverted by other
10 evidence, but unless so controverted, the appeals board is bound
11 to find in accordance with it. This presumption shall be extended
12 to a member following termination of service for a period of three
13 calendar months for each full year of the requisite service, but not
14 to exceed 60 months in any circumstance, commencing with the
15 last date actually worked in the specified capacity.

16 A public entity may require applicants for employment in
17 firefighting positions who would be entitled to the benefits granted
18 by this section to be tested for infection for tuberculosis.

19 SEC. 5. Section 3212.8 of the Labor Code is amended to read:

20 3212.8. (a) In the case of peace officers described in Sections
21 830.1 to 830.38, inclusive, of the Penal Code and members of fire
22 departments of cities, counties, cities and counties, districts, or
23 other public or municipal corporations or political subdivisions,
24 whether those persons are volunteer, partly paid, or fully paid, and
25 in the case of active firefighting members of the Department of
26 Forestry and Fire Protection, or of any county forestry or
27 firefighting department or unit, whether voluntary, fully paid, or
28 partly paid, excepting those whose principal duties are clerical or
29 otherwise do not clearly fall within the scope of active law
30 enforcement service or active firefighting services, such as
31 stenographers, telephone operators, and other office workers, the
32 term “injury” as used in this division, includes a blood-borne
33 infectious disease or methicillin-resistant *Staphylococcus aureus*
34 skin infection when any part of the blood-borne infectious disease
35 or methicillin-resistant *Staphylococcus aureus* skin infection
36 develops or manifests itself during a period while that person is
37 in the service of that office, staff, division, department, or unit.
38 The compensation that is awarded for a blood-borne infectious
39 disease or methicillin-resistant *Staphylococcus aureus* skin
40 infection shall include, but not be limited to, full hospital, surgical,

1 medical treatment, disability indemnity, and death benefits, as
2 provided by the workers' compensation laws of this state.

3 (b) (1) The blood-borne infectious disease or
4 methicillin-resistant *Staphylococcus aureus* skin infection so
5 developing or manifesting itself in those cases shall be presumed
6 to arise out of and in the course of the employment or service. This
7 presumption is disputable and may be controverted by other
8 evidence, but unless so controverted, the appeals board is bound
9 to find in accordance with it.

10 (2) The blood-borne infectious disease presumption shall be
11 extended to a person covered by subdivision (a) following
12 termination of service for a period of three calendar months for
13 each full year of service, but not to exceed 60 months in any
14 circumstance, commencing with the last date actually worked in
15 the specified capacity.

16 (3) Notwithstanding paragraph (2), the methicillin-resistant
17 *Staphylococcus aureus* skin infection presumption shall be
18 extended to a person covered by subdivision (a) following
19 termination of service for a period of 90 days, commencing with
20 the last day actually worked in the specified capacity.

21 (c) The blood-borne infectious disease or methicillin-resistant
22 *Staphylococcus aureus* skin infection so developing or manifesting
23 itself in those cases shall in no case be attributed to any disease or
24 skin infection existing prior to that development or manifestation.

25 (d) For purposes of this section, "blood-borne infectious disease"
26 means a disease caused by exposure to pathogenic microorganisms
27 that are present in human blood that can cause disease in humans,
28 including those pathogenic microorganisms defined as blood-borne
29 pathogens by the Department of Industrial Relations.

30 ~~SEC. 6. Section 3212.85 of the Labor Code is amended to read:~~

31 ~~3212.85. (a) This section applies to peace officers described~~
32 ~~in Sections 830.1 to 830.38, inclusive, of the Penal Code, and~~
33 ~~members of a fire department.~~

34 ~~(b) The term "injury," as used in this division, includes illness~~
35 ~~or resulting death due to exposure to a biochemical substance that~~
36 ~~develops or occurs during a period in which any member described~~
37 ~~in subdivision (a) is in the service of the department or unit.~~

38 ~~(c) The compensation that is awarded for injury pursuant to this~~
39 ~~section shall include full hospital, surgical, medical treatment,~~

1 ~~disability indemnity, and death benefits, as provided by this~~
2 ~~division.~~

3 ~~(d) The injury that develops or manifests itself in these cases~~
4 ~~shall be presumed to arise out of, and in the course of, the~~
5 ~~employment. This presumption is disputable and may be~~
6 ~~controverted by other evidence. Unless controverted, the appeals~~
7 ~~board is bound to find in accordance with the presumption. This~~
8 ~~presumption shall be extended to a member following termination~~
9 ~~of service for a period of three calendar months for each full year~~
10 ~~of the requisite service, but not to exceed 60 months in any~~
11 ~~circumstance, commencing with the last date actually worked in~~
12 ~~the specified capacity.~~

13 ~~(e) For purposes of this section, the following definitions apply:~~

14 ~~(1) “Biochemical substance” means any biological or chemical~~
15 ~~agent that may be used as a weapon of mass destruction, including,~~
16 ~~but not limited to, any chemical warfare agent, weaponized~~
17 ~~biological agent, or nuclear or radiological agent, as these terms~~
18 ~~are defined in Section 11417 of the Penal Code.~~

19 ~~(2) “Members of a fire department” includes, but is not limited~~
20 ~~to, an apprentice, volunteer, partly paid, or fully paid member of~~
21 ~~any of the following:~~

22 ~~(A) A fire department of a city, county, city and county, district,~~
23 ~~or other public or municipal corporation or political subdivision.~~

24 ~~(B) A fire department of the University of California and the~~
25 ~~California State University.~~

26 ~~(C) The Department of Forestry and Fire Protection.~~

27 ~~(D) A county forestry or firefighting department or unit.~~

28 ~~SEC. 7.~~

29 *SEC. 6.* Section 3212.9 of the Labor Code is amended to read:

30 3212.9. In the case of a peace officer described in Sections
31 830.1 to 830.38, inclusive, of the Penal Code, when that person is
32 employed on a regular, full-time salary, or in the case of a member
33 of a fire department of any city, county, or district, or other public
34 or municipal corporation or political subdivision, or any county
35 forestry or firefighting department or unit, when those members
36 are employed on a regular full-time salary, excepting those whose
37 principal duties are clerical or otherwise do not clearly fall within
38 the scope of active law enforcement or firefighting, such as
39 stenographers, telephone operators, and other officeworkers, the
40 term “injury” includes meningitis that develops or manifests itself

1 during a period while that person is in the service of that
2 department, office, or unit. The compensation that is awarded for
3 the meningitis shall include full hospital, surgical, medical
4 treatment, disability indemnity, and death benefits as provided by
5 the provisions of this division.

6 The meningitis so developing or manifesting itself shall be
7 presumed to arise out of and in the course of the employment. This
8 presumption is disputable and may be controverted by other
9 evidence, but unless so controverted, the appeals board is bound
10 to find in accordance with it. This presumption shall be extended
11 to a person following termination of service for a period of three
12 calendar months for each full year of the requisite service, but not
13 to exceed 60 months in any circumstance, commencing with the
14 last date actually worked in the specified capacity.

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